REMARKS

Claims 1-3, 5-14, 16-25 and 28-36 are all the claims pending in the Application, as

claims 4, 15 and 27 are hereby cancelled without prejudice or disclaimer.

Applicant thanks the Examiner for considering the references cited with the *Information*

Disclosure Statement filed March 17, 2005.

Status of the Application

Claims 1-22 are all the claims pending in the Application, as claims 1-22 are hereby

added. Claims 1-19 stand rejected.

Rejection Under Obviousness-Type Double Patenting

The Examiner has provisionally rejected claims 1-19 as being unpatentable over claims

1-36 of US Patent Application 09/750,432 and claims 1-76 of US Patent Application 09/612,534.

As this is a provisional rejection, based only upon pending patent Applications, Applicant

elects to defer addressing the merits of the provisional rejection until one of the cited pending

Applications issues. Such deferral of addressing the merits of the rejection is clearly

contemplated by MPEP § 804(I)(B), which states that a "provisional" double patenting rejection

is designed simply to make Applicant aware of a potential problem. No response on the merits is

required, as no patented claims are available to be analyzed. Should the Examiner believe that

Applicants are required to address the merits of the rejection at this time, he is respectfully

requested to identify authority imposing such a requirement.

Applicant reserves the right to address the merits of the provisional double patenting

rejection or submit a terminal disclaimer to obviate the rejection.

Rejection Under 35 U.S.C. § 101

The Examiner has rejected claims 8-14 under 35 U.S.C. § 101 as allegedly being directed

to non-statutory subject matter. Applicant respectfully disagrees.

First, the Federal Circuit has indicated that 35 U.S.C. § 101 should be very broadly

interpreted, as it allows the patenting of "any new and useful process, machine, manufacture, or

composition of matter." In this instance, independent claim 8 is directed to "[a] computer

readable medium having stored thereon computer executable instructions for performing a

method." A "computer readable medium" is clearly at least one of a "process, machine,

manufacture, or composition of matter." Thus, independent claim 8 (and dependent claims 9-11)

are clearly directed to patentable subject matter.

Second, Applicant directs the Examiner to MPEP § 2106(IV)(b)(1), which <u>specifically</u>

indicates that, "[w]hen functional descriptive material is recorded on some computer-readable

medium it becomes structurally and functionally interrelated to the medium and will be statutory

in most cases since use of technology permits the function of the descriptive material to be

realized."

Third, with respect to the Examiner's allegation that:

> ... [c]laims 8-14 do not limit [sic] to tangible embodiments. In view of
> applicant's disclosure, there is no explicit and deliberate definitions
> which include examples intended to be cover [sic] by the claim
> terminology, i.e., computer readable medium, the medium therefore [sic],
> does not limited [sic] to tangible embodiments, instead being defined to
> includes [sic] tangible embodiment, applicant's omitted [sic] the
> definition[,] ...

Applicant cannot understand the Examiner's reasoning. An analysis of claims for compliance

with 35 U.S.C. § 101 should be directed to the claims. However, it appears that the Examiner is

considering portions of the specification to support his rejection. This is simply incorrect.

Independent claim 8 is directed to "a computer readable medium," which is clearly patentable

subject matter, as discussed above.

Obviousness Rejection

The Examiner has rejected claims 1-19 under 35 U.S.C. § 103(a) as being unpatentable

over *Polizzi et al.* (US 2002/0023158; hereinafter "*Polizzi*") in view of *Kirby et al.* (US

5,925,117; hereinafter "*Kirby*"). This rejection is respectfully traversed.

Independent Claims 1, 8 and 15

The Examiner takes the position that *Polizzi* discloses many of the features recited in

independent claims 1, 8 and 15, but fails to teach or suggest "a capability of reconnecting when

[a] data source, e.g., [a] resource [becomes] available." Applicant agrees that *Polizzi* is deficient

at least in this regard.

Nevertheless, the Examiner applies *Kirby*, taking the position that it discloses "a

technique or concept of resource availability detection" similar to the claimed features.

Additionally, the Examiner alleges that one of skill would have been motivated to modify *Polizzi*

with Kirby "to connect or reconnect source and target or data source and application" to

"eliminate a tedious task of ... manually checking and reconnecting communication."

Applicant respectfully disagrees. Even if it were possible to modify *Polizzi* in view of

Kirby as the Examiner has alleged, Applicants respectfully submit that neither *Polizzi* nor *Kirby*

(nor any combination thereof) teaches or suggests: (1) "detecting unavailability of the data

source in response to an initial request for the data source by the remote application; dynamically

detecting availability of the data source in response to a subsequent request for the data source;

and re-connecting the data source to the remote application in response to the subsequent

request" as recited in independent claims 1 and 8; or (2) "one of the port module and the

connection manager module are further configured to detect unavailability of the data source in

response to an initial request for the data source by the remote application, to dynamically detect

availability of the data source in response to a subsequent request for the data source, and to re-

connect the data source to the remote application in response to the subsequent request" as

recited in independent claim 15.

Specifically, the Examiner concedes that *Polizzi* is deficient with respect to these

features. Further, with respect to *Kirby*, Applicant respectfully submits that *Kirby* does not

detect "unavailability of the data source in response to an initial request for the data source by a

remote application" (emphasis added). Rather, *Kirby* discloses that the computer system

includes an event coordinator 202 for detecting when the computer system is separated from the

dock. This event coordinator 202 then notifies the applications that the computer system is

undocked (col. 5, lines 51-59; col. 6, line 51 - col. 7, line 14). Thus, unavailability of data

sources in *Kirby* is broadcast to the applications, which is opposite of the claimed relationship.

Thus, Applicant respectfully submits that independent claims 1, 8 and 15 are patentable

over the applied references. Further, Applicant respectfully submits that rejected dependent

claims 2-7, 9-14 and 16-19 are allowable, *at least* by virtue of their dependency.

Thus, Applicants respectfully request that the Examiner withdraw this rejection.

New Claims

Claims 20-22 are hereby added. Claims 20-22 are respectively dependent upon

independent claims 1, 8 and 15, and further specify connecting directly the interface module and

the port module for "communicating independently from the connection manager in subsequent

communications." Claims 20-22 are fully supported at least by FIG. 3 of the instant Application,

and are respectfully submitted to be allowable both by virtue of their dependency, and by virtue

of the features recited therein. Further, Applicants respectfully submit that claims 20-22 are

patentable over *Polizzi* at least for the reasons discussed in Applicant's October 14, 2005

personal interview with the Examiner in related Applications 09/750,432 and 09/612,534.

Conclusion

In view of the foregoing, it is respectfully submitted that claims 1-22 are allowable.

Thus, it is respectfully submitted that the application now is in condition for allowance with all

of the claims 1-22.

If any points remain in issue which the Examiner feels may be best resolved through a

personal or telephone interview, the Examiner is kindly requested to contact the undersigned at

the telephone number listed below.

Please charge any fees which may be required to maintain the pendency of this

application, except for the Issue Fee, to our Deposit Account No. 19-4880.

Respectfully submitted,

SUGHRUE MION, PLLC   Timothy P. Cremen
2100 Pennsylvania Avenue, N.W.   Registration No. 50,855
Washington, D.C. 20037-3213
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: November 22, 2005